REMARKS

35 U.S.C. § 102 Rejections

Claims 1 - 4, 11, 13 - 16, 18, 21 - 22, and 24 are rejected under 35 U.S.C. §102(b) as being unpatentable over U.S. Patent No. 5,980,583 issued to Staub et al. (hereinafter "Staub et al.") for the reasons of record stated on pages 2 and 3 of the Office Action. Applicants respectfully traverse this rejection. Staub et al. purports to disclose a tumble dryer [Staub et al., column 3, lines 30 - 350] which includes a garment door access window [Staub et al., column 4, lines 63 - 65]. A support bracket is attached to the garment access door for mounting an atomizer unit. [Staub et al., column 4, lines 65 - 67]. Holes can be drilled into the access door window for this purpose. [Staub et al., column 5, lines 1 - 3] The atomizer unit projects durable press resins into a tumbling drum through an access hole in the garment access door window of the tumbling drum. [Staub et al. column 5, lines 1 - 20]. The durable press resin is fed into the atomizer unit from a separate mix/measure storage tank. [Staub et al. column 6, lines 53 - 63].

To anticipate a claim, the reference must teach every element of the claim. "The identical invention must be shown in as complete detail as is contained in the ... claim." M.P.E.P. § 2131 citing *Richardson v. Suzuki Motor Co.*, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989).

The Office Action on page 3 also indicates that "*the apparatus further has...means for heating*" the durable press resin of Staub et al. Applicants respectfully disagree. Page 7, lines 25 - 30 of Staub indicates that the "*durable press resin can be heated to 130° F prior to injection into the drum. To maintain the 130° F temperature of the durable press resin, the main chemical storage tank can be insulated.*" Though Staub et al. indicates a heated durable press resin can be used in the drum of the apparatus and that the heated durable press resin can be maintained at a temperature of 130° F by storing the resin in a chemical storage tank that is insulated, there is no disclosure in Staub et al. that teaches a fabric article treating device which includes a means for heating a benefit composition as claimed by Applicants in the instant application.

Page 3 of the Office Action indicates that Staub et al. teaches a wrinkle releaser. Applicants see no teaching within Staub et al. which discloses or teaches a "wrinkle releaser". Applicants respectfully request the Examiner to point to the specific disclosure in Staub et al. which discloses a wrinkle releaser. The Office Action on page 3 also indicates that the "apparatus further has heat sensors". Applicants see no teaching within Staub et al. which discloses or teaches heat sensors. Applicants respectfully request the Examiner to point to the specific disclosure in Staub et al. which discloses heat sensors.

Hence, Claims 1 - 4, 11, 13 - 16, 18, 21 - 22, and 24 are not anticipated by Staub et al. Applicants respectfully request this rejection be reconsidered and withdrawn.

35 U.S.C. § 103 Rejections

Claims 5 - 10, 19, and 23 are rejected under 35 U.S.C. §103(a) as being unpatentable over Staub et al. and further in view of U.S. Patent No. 4,242,377 issued to Roberts et al. (hereinafter "Roberts et al.") for the reasons of record stated on pages 2 - 4 of the Office Action.

Claim 12 is rejected under 35 U.S.C. §103(a) as being unpatentable over Staub et al. and further in view of U.S. 4,891,890 issued to Church (hereinafter "Church") for the reasons of record stated on page 4 of the Office Action.

Claims 17 and 20 are rejected under 35 U.S.C. §103(a) as being unpatentable over Staub et al. and further in view of U.S. 4,207,683 issued to Horton (hereinafter "Horton") for the reasons of record stated on page 4 - 5 of the Office Action. This rejection as it applies to Claim 17 is now moot as Claim 17 stands cancelled herewith without prejudice and hence will not be discussed further in this response.

Claim 25 is rejected under 35 U.S.C. §103(a) as being unpatentable over Staub et al. and further in view of U.S. 4,014,105 issued to Furgal et al. (hereinafter "Furgal et al.") for the reasons of record stated on page 5 of the Office Action.

Applicants respectfully traverse these rejections. "In order to establish a *prima facie* case of obviousness, three basic criteria must be met: First, there must be some suggestion or motivation, either in the reference itself or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success *must both* be found in the prior art, and *not* based on applicant's disclosure (emphasis added)." M.P.E.P. §2142 citing *In re Vacek*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991).

"The initial burden is on the Examiner to provide some suggestion of the desirability of doing what the inventor has done. To support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references." M.P.E.P. §2142 citing *Ex parte Clapp*, 227 U.S.P.Q. 972, 973 (Bd. Pat. App. & Inter. 1985).

With regard to the rejection of Claims 5 - 10, 19, and 23 as being unpatentable over Staub et al. and further in view of Roberts et al., as discussed above, Staub et al. does not teach a fabric article treating device which includes a means for heating a benefit composition as claimed by Applicants in the instant application. Furthermore, as noted by the Examiner "...*Roberts does not teach heating a fabric composition in combination with a dryer*." Additionally, Roberts does not teach a fabric article device which includes a means for heating a benefit composition.

Hence, as the combination of Staub et al. and Roberts et al. does not teach *inter alia* a fabric article treating device which includes a means for heating a benefit composition, Claims 5 - 10, 19, and 23 are unobvious over Staub et al. as well as Staub et al. in view of Roberts.

With regard to the obviousness rejections of Claim 12 over Staub et al. as applied to Claim 11 or Staub et al. in view of Church, as discussed above, Staub et al. does not teach a fabric article treating device which includes a means for heating a benefit composition as claimed by Applicants. Nor does Church teach or suggest such a device. Hence, as neither Staub et al. alone nor Staub et al. in combination with Church teach Applicants' claimed invention, instant Claim 12 is unobvious

over Staub et al. as well as Staub et al. in view of Church.

With regard to the rejection of Claim 20 over Staub et al. as applied to Claim 11 and Staub et al in view of Horton, there is no suggestion in either Staub et al. or Staub et al. in view of Horton which suggests a removably attached device for attachment to a fabric article drying appliance which includes *inter alia* a means for heating a benefit composition comprising a thermoelectric module as claimed by Applicants. Hence, instant Claim 20 is unobvious over Staub et al. as well as Staub et al. in view of Horton.

With regard to the rejection of Claim 25 over Staub et al. in view of Furgal et al., there is no suggestion in either Staub et al. or Staub et al. in view of Furgal et al. of a method for treating fabrics including *inter alia* utilizing a fabric article treating device in conjunction with a fabric article drying appliance wherein the fabric article treating device includes at least one means for heating a benefit composition and dispensing the heated benefit composition into a drying appliance wherein an exothermic composition is used to heat the benefit composition and wherein instructions are provided for using the exothermic composition to heat the benefit composition. Hence, instant Claim 25 is unobvious over Staub et al. as well as Staub et al. in view of Furgal et al.

As the obviousness rejections are overcome, Applicants respectfully request these rejections be reconsidered and withdrawn.

SUMMARY

This is a RCE which is responsive to the final Office Action dated December 1, 2004. As the rejections under 35 U.S.C. §102 and §103 have been overcome, Applicants respectfully request these rejections be withdrawn and the claims allowed.

Respectfully submitted,
FOR: PANCHERI ET AL.;

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